

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WAYNE BERRY,

Plaintiff,

vs.

DEUTSCHE BANK TRUST COMPANY
AMERICAS (FKA BANKERS TRUST
COMPANY) and JP MORGAN CHASE
BANK in their separate capacities and as
agents for the pre- and post-petition lenders of
Fleming Companies, Inc.; GENERAL
ELECTRIC CAPITAL CORPORATION;
C&S WHOLESALE GROCERS, INC.; THE
POST-CONFIRMATION TRUST OF
FLEMING COMPANIES, INC.; ROBERT
KORS; CORE-MARK HOLDINGS INC. and
DOES 1 to 200,

Defendants.

Case No. 01:07 CV 7634 (WHP)

ECF Case

DEUTSCHE BANK TRUST COMPANY AMERICAS AND JP MORGAN
CHASE BANK'S NOTICE OF MOTION TO DISMISS

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PLEASE TAKE NOTICE that, upon the attached DEUTSCHE BANK TRUST COMPANY AMERICAS AND JP MORGAN CHASE BANK'S MOTION TO DISMISS AND MEMORANDUM IN SUPPORT OF MOTION and REQUEST FOR JUDICIAL NOTICE, the undersigned will move before the Honorable William H. Pauley III, Judge of the United States District Court for the Southern District of New York, at the United States District Courthouse, located at 500 Pearl Street, Courtroom 11D, New York, New York 10007, at 10:30 a.m. on April 4, 2008, for an order to dismiss Plaintiff's Second Amended Complaint.

DATED: January 25, 2008

By: /s/ Michael E. Baumann

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